

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

STENSTROM GENERAL CONTRACTOR/DESIGN
BUILD GROUP, INC.,

ORDER

Plaintiff,

12-cv-533-bbc

v.

ALACRAN CONTRACTING, LLC and
LIBERTY MUTUAL INSURANCE COMPANY,

Defendants.

This case for breach of contract and a violation of the Miller Act is scheduled for trial on October 15, 2013. Dkt. #19. Neither side moved for summary judgment and neither side filed anything with the court after March 25, 2013, when the parties stipulated to an extension of time to disclose experts. Dkt. #29. Now, plaintiff Strenstrom represents in a document that it calls a “status report” that the case was settled but defendant Alacran has since defaulted. Dkt. #31. Plaintiff says that it will be filing a “Motion to Amend the Complaint to include a Breach of the Settlement Agreement, along with a Motion for Summary Judgment on the Settlement Agreement.” Id. It asks the court to “take the trial date off the calendar and suspend all other dates” pending resolution of those motions. Id. In their response, defendants say that “[t]his matter is settled,” but they do not object to removing the trial date and suspending all deadlines. Dkt. #32.

The parties are free to file whatever motions they wish, but I decline to strike the trial date or any other deadlines at this time. The parties never informed the court that the case had settled and they have yet to produce any evidence of this. After the parties complete briefing their motions, I will determine whether a trial is still necessary. Until then however, the trial date and all trial deadlines remain in place.

Plaintiff is advised that if it wishes to replace its claim under the Miller Act for a breach of a settlement agreement, it will need to demonstrate that it remains appropriate for the court to exercise jurisdiction over the new claim.

ORDER

IT IS ORDERED that plaintiff Stenstrom General Contractor/Design-Build Group, Inc.'s request to strike the date and all remaining deadlines, dkt. #31, is DENIED.

Entered this 13th day of August, 2013.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge